

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**WASHINGTON, D.C. 20460**

**OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION**

**To:** Susan Lewis, Director  
Registration Division  
Office of Pesticide Programs

**From:** Marion Johnson, Chief  
Minor Use and Emergency Response Branch  
Registration Division

**Subject:** Repeat Section 18 Emergency Exemption Requests for Bifenthrin on Apple, Peach, and Nectarine to Control the Brown Marmorated Stink Bug in Pennsylvania (15PA03, -04 & -05), North Carolina (15NC03, -04 & -05) and West Virginia (15WV04, -05, & -06)

This is the fourth year that emergency exemption requests have been submitted for this use, and exemptions for this use have been authorized for the past three years to DE, MD, NJ, NC, PA, VA, and WV, and for the past two years to NY. The uses requested this year are identical to those from the past three years, and are being requested to control the invasive Brown Marmorated Stink Bug (BMSB), in apples, peaches, and nectarines. The following table summarizes acres authorized for treatment and estimates of actual acres treated under the past exemptions. Acreage treated has generally been lower than requested. For 2013, State contacts indicated that while BMSB populations were not necessarily lower in all areas, the higher availability of wild alternative host plants may have alleviated some of the pressure and damage to fruit trees (the years prior had drier conditions leading to less available wild host plants).

<b><i>Bifenthrin Section 18s for Apple, Peach, and Nectarine for BMSB Control</i></b>				
<i>State</i>	<i>Acres Authorized</i>	<i>Acres Treated 2012</i>	<i>Acres Treated 2013</i>	<i>Acres Treated 2014</i>
DE	415	-0-	-0-	-0-
MD	3,570	2,500	3,000	2,900
NC	4,000	-0-	250	350
NJ	8,100	100	1,840	No request yet
NY	5,900	--n/a--	1,239	No request yet
PA	24,973.4	725	144	144
VA	29,000	5,211	1,635	4,116
WV	5,986	125	-0-	1,960-4,900**

*Acres treated are estimates based on registrant sales data; WV number based on low and high rates authorized using sales data.*

The listed states, with the exception of New York, have also requested and received use of dinotefuran under emergency exemptions since 2011. Michigan also obtained use of dinotefuran for the first time in 2013-14, and has inquired about also requesting bifenthrin. However, they did not submit a request in 2014, and they do not intend to do so for 2015.

The BMSB, a recent invasive pest, continues to pose a threat to pome and stone fruit trees in the US. There are no known natural enemies in the US to help regulate populations, and limited available pesticide controls with no registered products that will provide adequate and suitable season-long control. In 2010, the BMSB populations occurred at damaging levels in the US, which led to USDA naming it a national priority, and forming a workgroup to research management of the BMSB.

BEAD's review of the 2012 requests indicated that an emergency condition exists with respect to control of BMSB on stone and pome fruit, and without adequate control, significant economic losses were likely. BEAD was consulted for the 2013 request from NY, and indicated that under similar pest pressure, the emergency condition and expected losses would be similar, and significant economic losses would be likely. The provisions and use conditions are analogous to the past authorizations for all of the states and other aspects of the situation are essentially the same. **For further details, the Decision Memorandum for the 2012 requests is attached.**

EFED also evaluated the 2012 requests and determined that the potential risks to the environment are not expected to exceed levels of concern from these uses, provided all restrictions on the label and the section 18 use directions are followed, particularly those related to protection of aquatic organisms and pollinators.

For 2014, HED provided an updated screening of acute dietary risk based on preliminary data from 2012 PDP sampling. The data is considered preliminary because it is not clear whether proper sampling, storage, and processing procedures were followed. Nonetheless, HED considered this data to screen for potential acute risks of concern from dietary exposures. The assessment also incorporated processing factors and new %CT figures from BEAD (2014) for apple, peach, nectarine, and pear. *Additionally, the assessment included use in an additional state, Michigan (who has inquired about submitting a request).* This updated acute dietary risk assessment concluded that estimated dietary exposures remain below the Agency's level of concern (utilizing <100% aPAD) for acute effects. The estimated acute dietary exposures for food and drinking water for the most highly exposed population subgroup, infants (<1 year old) occupied 55.5% of the aPAD (previously 29%) and for the general US population, 7.1% of the aPAD (previously 5%) was occupied. Non-dietary risks remain unchanged from HED's 2012 assessment. The current time-limited tolerances established for apple, peach, and nectarine at 0.5 ppm will be adequate to cover any residues that might result from these uses. To better define the expected residues, PDP collected additional data during 2014, which is currently at EPA and under review. According to HED, preliminary examination indicates that the residues detected were all significantly lower than those used in the previous risk assessment. Thus, it is likely a new risk assessment would show lowered risk compared to the estimates given here.

MUERB has confirmed that no new alternatives exist for control of the BMSB in pome and stone fruits, and there do not appear to be any outstanding risk data that might undermine the previous safety finding. The MUERB analyst confirmed that these requests meet the criteria for the re-certification program.

IR-4, in cooperation with the registrants, is supporting registration of these uses. Residue trials were completed in 2013 and 2014 and samples are currently undergoing processing and analysis. Progress toward registration has therefore been adequate since last year.

Therefore, I recommend that the attached actions be approved. In the event that these emergency uses are requested next year, MUERB is recommending that they be retained on the re-certification eligibility list. The attached letters convey a preliminary determination of eligibility if these states decide to seek exemptions for the 2016 growing season.